

DOCKET FILE COPY ORIGINAL

PEPPER & CORAZZINI, LLP
ATTORNEYS AT LAW

1776 K STREET, N.W., SUITE 200
WASHINGTON, D.C. 20006-2334

195
RECEIVED

JUL 17 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VINCENT A PEPPER
EXT. 235
VAP@COMMLAW.COM

(202) 296-0600
FAX (202) 296-5572
WWW.COMMLAW.COM

July 17, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dear Ms. Salas:

On behalf of McPike Communications, Inc., proposed surviving applicant for a new commercial television station to be operated on Channel 45, Lincoln, Nebraska, and the dismissing applicants, we hereby transmit an original four (4) copies of a Petition for Rule Making proposing a change in the Lincoln, Nebraska Table of Allotments to change Channel 45 to Channel 53 caused by the allocation of Channel 45 as a DTV allotment at Omaha, Nebraska. This Petition is being filed pursuant to the Commission's Public Notice opening a filing window for such Petitions (*Public Notice*, DA 99-2605 rel. November 22, 1999).

Should any further information be desired in connection with this matter please communicate with this office.

Very truly yours,


Vincent A Pepper

Enclosures

cc w/encl: John Griffith Johnson, Jr., Esq. (counsel for Larry A. Miller)
George R. Borsari, Jr., Esq. (counsel for Northwest Television, Inc.)
A. Wray Fitch, III, Esq. (counsel for Walnut Creek Telecasting)

No. of Copies rec'd 014
List A B C D E
MNB

RECEIVED

JUL 17 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)
)
Amendment of Section 73.606(b),) MM Docket No. 00-
Table of Allotments) RM-
TV Broadcast Stations.)
(Lincoln, Nebraska))
)
To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULE MAKING

McPike Communications, Inc. ("McPike") hereby petitions for rulemaking to amend the Table of Allotments for NTSC TV Broadcast Stations to substitute Channel 53 for Channel 45 at Lincoln, Nebraska. McPike submits this Petition in response to the Mass Media Bureau's Public Notice *Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations*, DA 99-2605 (Release November 22, 1999) (hereafter "*Public Notice*"). In support of this Petition, McPike submits the following:

1. McPike filed an application for a construction permit for a new TV broadcast station on Channel 45, at Lincoln, Nebraska, (File No. BPCT-950630KE). Additional applications requesting the same channel were filed by Northwest Television, Inc. (File No. BPCT-951106KF); Larry A. Miller (File No. BPCT-951106KP); and Walnut Creek Telecasting (File No. BPCT-951107KG). The four applicants have executed a Settlement Agreement and are filing a Joint Request for Approval of that Settlement

Agreements, requesting the grant of McPike's application and the dismissal with prejudice of the remaining three applications. McPike is authorized to represent to the FCC that the other three applicants support the filing of this Petition for Rule Making and the proposed amendment to the NTSC TV Table of Allotments.

2. The *Public Notice* opened "a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their requests, if possible, to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69." *Public Notice*, P. 1. More specifically, the *Public Notice* opened a window for the filing of "petitions for rule making seeking a new channel below channel 60 for those applicants with pending applications for new full-service NTSC television stations on channel 2-59 at locations inside of the 'TV Freeze Areas.'" *Id.* The applicants herein come within this eligibility category because they filed applications for new full-service NTSC television stations on Channel 45 at Lincoln, Nebraska, which now conflicts with a DTV allotment at Omaha, Nebraska.

3. The appended Engineering Statement provides documentation to support this request to substitute Channel 53 for Channel 45 at Lincoln, Nebraska. Upon the amendment of the TV Table of Allotments, McPike will amend the technical portion of its application pending before the Commission to specify operation on the substitute channel.

4. The public interest is obviously served by grant of this petition because it gives effect to the Commission's *Public Notice*, it eliminates a technical conflict with a

DTV allotment, and it expedites the inauguration of a new television service at Lincoln, Nebraska, Channel 53.

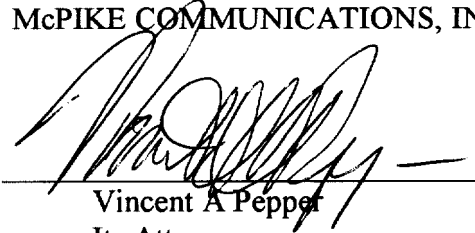
WHEREFORE, McPike requests that the Commission adopt and release a Notice of Proposed Rule Making, proposing to amend the NTSC TV Table of Allotments, and thereafter adopt and release a Report and Order amending the NTSC TV Table of Allotments as follows:

Community	Present	Proposed
Lincoln, NE	8+, 10+, *12, 45, 51	8+, 10+, *12, 51, 53

Respectfully submitted,

McPIKE COMMUNICATIONS, INC.

By: _____


Vincent A Pepper
Its Attorney

Pepper & Corazzini, L.L.P.
1776 K Street, NW, Suite 200
Washington, DC 20006
tel: (202) 296-0600
fax: (202) 296-5572

July 17, 2000

EXHIBIT A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of McPIKE COMMUNICATIONS, INC., applicant for a new analog television station to operate on Channel 45 in Lincoln, Nebraska, in support of its Petition for Rulemaking to change operation to Channel 53. This change is required because Channel 45 has been allotted for digital use in nearby Omaha.

The reference coordinates for this proposed allotment are 40° 48' 11", 97° 10' 52", which describe an existing tower from which the Channel 53 facility would operate. Exhibit B is an allocation study which demonstrates that the specified site meets all NTSC spacings, except one. As indicated, there would be a shortage to two pending applications for Channel 51, Lincoln. This matter is discussed below.

We have conducted the equivalent of a *de minimis* interference analysis with respect to DTV allotments, similar to that supplied with DTV applications, using the V-Soft Communications "Probe" computer program, which has been found generally to mimic the FCC's program. The results of the study are included as Exhibit C and show an absence of objectionable interference. This study assumed facilities of 5000 kw, nondirectionally, at 397 meters. Exhibit D is a copy of Page 14 of FCC Form 301 providing the technical specifications of the assumed facility.

As noted, this proposal involves a request for waiver of the Rules with respect to the spacing to two pending applications for Channel 51 in Lincoln. There is no channel that can be allotted to Lincoln in full compliance with the spacing Rules and the standards for interference to digital allotments, but we have identified Channel 53 as that which would have the least impact

EXHIBIT A

on the Commission's allotment plan. Indeed, we have determined that no interference would result from this proposal.

Between Channels 51 and 53 there is a potential for intermodulation interference on Channels 48, 49, 50, 54, 55, and 56. However, there are no NTSC stations operating on these channels that provide service to the Lincoln area. Thus, no interference can result from this proposal. In addition, no new NTSC allotments will be made on these channels, and the requested waiver will be in effect only until the final transition to digital television. Finally, there are several applications pending for Channel 51, only two of which would be short-spaced to this proposal. Thus, waiver is required only if one of these two applications for Channel 51 is ultimately granted.

In a recent *Memorandum Opinion and Order* the Commission granted three applications for the modification of NTSC facilities. In BPCT-980702KH, BPCT-981123KK, and BPCT-990324KE the Commission waived taboo spacing requirements, and in each case one spacing waiver involved the intermodulation taboos, just as in the instant proposal. As a consequence, there is clear precedent for the requested waiver.

I declare under penalty of perjury that the foregoing statements and the attached exhibits are true and correct to the best of my knowledge and belief.



NEIL M. SMITH

July 12, 2000

EXHIBIT B

NTSC ALLOCATION STUDY
 PROPOSED TELEVISION STATION
 CHANNEL 53 - LINCOLN, NEBRASKA

Channel	Nearest Allotment	Spacing (km)		
		Required	Proposed	Difference
38	--	119.9	--	--
39	--	95.7	--	--
45	*	31.4	--	--
46	--	95.7	--	--
48	Application, Omaha, NE	31.4	54.4	+ 23.0
49	--	31.4	--	--
50	--	31.4	--	--
51**	Appl. BPCT-960919LE, Lincoln, NE	31.4	0	- 31.4
51**	Appl. BPCT-960724LG, Lincoln, NE	31.4	5.0	- 26.4
52	--	87.7	--	--
53	--	280.8	--	--
54	Allotment, Omaha, NE	87.7	112.1	+ 24.4
55	--	31.4	--	--
56	--	31.4	--	--
57	--	31.4	--	--
58	--	31.4	--	--
60	--	95.7	--	--
61	--	31.4	--	--
67	--	95.7	--	--
68	--	119.9	--	--

* There are pending applications for Channel 45 in Lincoln, the subject of this proposal.

** There are other applications for this allotment that meet the required spacing.

EXHIBIT C

DTV INTERFERENCE ANALYSIS
 PROPOSED TELEVISION STATION
 CHANNEL 53 - LINCOLN, NEBRASKA

<u>Call</u>	<u>Location</u>	<u>Ch.</u>	<u>Interference Losses (Population)</u>				<u>%</u>
			<u>Longley-Rice DTV Population</u>	<u>NTSC & DTV Without Proposal</u>	<u>NTSC & DTV With Proposal</u>	<u>Unmasked Proposal Contribution</u>	
WQTV-DT (Allot.)	St. Joseph, MO	53	967,690	0	1,588	1,588	0.16
WQTV-DT (C.P.)	St. Joseph, MO	53	234,276	0	969	969	0.41

SECTION III-C TV Engineering

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel Number:	<u>53</u>												
2. Offset:	Plus _____	Minus _____	Zero <u>X*</u>										
3. Zone:	<input type="checkbox"/> I	<input checked="" type="checkbox"/> II	<input type="checkbox"/> III										
4. Antenna Location Coordinates: (NAD 27)	<table border="0"> <tr> <td><u>40</u> °</td> <td><u>48</u> '</td> <td><u>11</u> "</td> <td><input checked="" type="checkbox"/> N</td> <td><input type="checkbox"/> S Latitude</td> </tr> <tr> <td><u>97</u> °</td> <td><u>10</u> '</td> <td><u>52</u> "</td> <td><input type="checkbox"/> E</td> <td><input checked="" type="checkbox"/> W Longitude</td> </tr> </table>			<u>40</u> °	<u>48</u> '	<u>11</u> "	<input checked="" type="checkbox"/> N	<input type="checkbox"/> S Latitude	<u>97</u> °	<u>10</u> '	<u>52</u> "	<input type="checkbox"/> E	<input checked="" type="checkbox"/> W Longitude
<u>40</u> °	<u>48</u> '	<u>11</u> "	<input checked="" type="checkbox"/> N	<input type="checkbox"/> S Latitude									
<u>97</u> °	<u>10</u> '	<u>52</u> "	<input type="checkbox"/> E	<input checked="" type="checkbox"/> W Longitude									
5. Antenna Structure Registration Number:	<u>1041796</u>												
	<input type="checkbox"/> Not applicable	<input type="checkbox"/> FAA Notification Filed with FAA											
6. Height of Radiation Center Above Mean Sea Level:	<u>847</u>	meters											
7. Overall Tower Height Above Ground Level:	<u>457</u>	meters											
8. Height of Radiation Center Above Ground Level:	<u>381</u>	meters											
9. Height of Radiation Center Above Average Terrain:	<u>397</u>	meters											
10. Maximum Effective Radiated Power (ERP):	<u>5000</u>	kW											
11. Antenna Specifications:	<table border="1"> <tr> <td>Manufacturer</td> <td>Model</td> </tr> <tr> <td>Dielectric</td> <td>TFU-30E</td> </tr> </table>			Manufacturer	Model	Dielectric	TFU-30E						
Manufacturer	Model												
Dielectric	TFU-30E												
b. Electrical Beam Tilt:	<u>0.75</u> degrees	<input type="checkbox"/> Not Applicable											
c. Mechanical Beam Tilt:	<u>--</u> degrees toward azimuth	<u>--</u> degrees True	<input checked="" type="checkbox"/> Not Applicable										
Attach as an Exhibit all data specified in 47 C.F.R. Section 73.685.			Exhibit No. <u>--</u>										
d. Polarization:	<input checked="" type="checkbox"/> Horizontal	<input type="checkbox"/> Circular	<input type="checkbox"/> Elliptical										

*Suggested

EXHIBIT D

PROPOSED OPERATING PARAMETERS

PROPOSED TELEVISION STATION
CHANNEL 53 - LINCOLN, NEBRASKA

SMITH AND FISHER

CERTIFICATE OF SERVICE

I, Lisa A. Skoritoski, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 17th day of July, 2000, copies of the foregoing Petition for RuleMaking were hand delivered to the following:


Roy J. Stewart, Esq.
Chief, Mass Media Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, SW, Room 2-C347
Washington, DC 20554

Barbara A. Kreisman, Esq.
Chief, Video Services Division
Federal Communications Commission
The Portals
445 Twelfth Street, SW, Room 2-A666
Washington, DC 20554

Clay Pendarvis, Esq.
Chief, Television Branch
Federal Communications Commission
The Portals
445 Twelfth Street, SW, Room 2-A662
Washington, DC 20554

John A. Karousos, Esq.
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, SW, Room 3-A266
Washington, DC 20554

Shaun Maher
Video Services Division
Federal Communications Commission
The Portals
445 Twelfth Street, SW, Room 2-A820
Washington, DC 20554


Lisa A. Skoritoski